Court No. 2

In the High Court of Uttaranchal at Nainital.

A.O. No. 91 of 2002.

U.P.State Road Transport Corporation
Through Regional Manager, Tanakpur.
.....Opp.Party/Appellant

Versus

(1)Smt.Parwati Tiwari
W/o late Sri Harish Cahandra Tiwari,
(2)Himanshi Tiwari S/o late Sri Harish Chandra Tiwari,
(3)Km.Ashlesha tiwari D/o late Harish Chandra Tiwari,
(4)Smt.Handha Tiwari W/o late Sri Heeraballabh Tiwari,
All R/o Village-Dhari, P.O.Dungra,
Tehsil & District-Pithoragarh.
.....Claimant/Respondents

Sri A.N.Sharma, learned counsel for the appellant.
Sri Manoj Tiwari, learned counsel for the respondents.

Dated: 21st Aug.,2004

Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

This appeal has been filed by the appellant under Sec.173 of the Motor Vehicles Act, 1988 against the judgment and order dated 31.01.2001 passed by the Motor Accident Claims Tribunal/District Judge, Pithoragarh in Motor Accident Claim Case No. 26 of 2000.

2. Brief facts giving rise to this appeal are that on 08.1.2001 deceased Harish Chandra Tiwari was travelling by Bus No.UP-02B-9049 of U.P.S.R.T.C. from Champawat to Pithoragarh. At about 10:00 a.m. when the bus reached near Tiffin top it met with an accident. It was alleged that the said bus was being driven by its driver rashly and negligently due to which the bus lost control and fell into Khud. The deceased died at the spot due to said accident. He was 40 years of age and was employed on the post of Agent in Lok Nirman Vibhag, Pithoragarh and was drawing

a monthly salary of Rs. 4367/- at the time of accident. The claimants who are dependents of deceased filed claim petition for compensation amounting to Rs. 12,75,000.00 against the opposite party.

4. The Opp.party-U.P.S.R.T.C. contested the case but did not deny the accident. It was stated that the accident did occur due to bad condition of road on the place of accident. The learned Tribunal framed necessary issues and after recording evidence of the parties decided all these issues in favour of the claimants. The claim petition was decreed for Rs. 4,41,700/- against the Opp.party alongwith interest at the rate of 9% per annum from the date of filing of the claim petition till the date of payment.

5. The leaned counsel for the U.P.S.R.T.C. challenged the award only on one ground that the amount of compensation awarded is highly excessive. We have gone through material on record. The learned Tribunal has recorded a finding that the accident occurred due to rash and negligent driving of the offending bus. The Tribunal has also dealt with the matter regarding income and age of the deceased and gave its finding. Nothing has been shown to us on behalf of the appellant-U.P.S.R.T.C. so as to warrant any interference with the findings arrived at by the learned Tribunal in the case under appeal. We find no illegality or infirmity in the order of the learned Tribunal and the appeal deserves dismissal.

6. On the other hand, the learned counsel for the claimant/respondents contended that the learned Tribunal has erred in applying the multiplier while calculating the loss of dependency. He has contended that on the date of accident the deceased was of 40 years and 8 months. To prove this fact, the claimants have filed paper No.10-C

before the Tribunal which is the photostat copy of the certificate of Junior High School Examination of the deceased in which the date of birth of the deceased has been mentioned as 01.04.1960. Hence the learned Tribunal has wrongly applied the multiplier of '12' while according to multiplier provided in the Schedule appended to Sec.163-A of the Motor Vehicles Act the multiplier should have been applied of **'15'** in this case.

7. Accordingly, applying the multiplier of '**15'** on the annual income of the deceased as held by the Tribunal i.e. Rs. 36,600/-, it comes to Rs.5,49,000/-. The learned Tribunal has also fixed Rs. 2,500/- in the count of funeral expenses. Thus, the total amount of compensation to be paid to the claimants comes to Rs.5,51,500/-.

8. The appeal filed by the appellant is dismissed and the impugned order dated 31.1.2002 passed by the learned Tribunal is modified accordingly. The claimants/respondents shall be paid Rs. 5,51,500/- (Rupees five lac fifty one thousand five hundred) only as compensation by the U.P.S.R.T.C. alongwith interest at the rate of 9% (nine per cent) per annum.

(B.S.Verma, J.) **(P.C. Verma, J.)**

P.Singh.